

**LICENSING SUB – COMMITTEE**29 September 2005Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**The Mash Tun  
60 Eastgate Street  
Winchester**

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**Part A.****1. Application****Applicant:** Ian Sainsbury and Catherine Sainsbury**Premises:** The Mash Tun**Conversion of the Existing Licences.**

The conversion of the existing licences was granted under delegated powers on 16 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 have the benefit of a Public Entertainment Licence the permitted hours of which are Mondays to Thursdays from 1700 to 2300, Fridays and Saturdays from 1700 to 0000 and Sundays from 1700 to 2230.

**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 is also to remove all embedded restrictions inherent in the Licensing Act 1964.

Notice of the application was displayed outside of the premises for a period of 28 days until 2 September 2005, and advertised in the Hampshire Chronicle on 12 August 2005.

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

**1 Regulated Entertainment (B,C,E,F,H,I,J,K)**

Video, TV, Amusement Machines, pub games for audience, Live and Recorded music, music and dance facilities including marquee

***Sunday to Thursday***            ***1000 to 0000***  
***Friday and Saturday***        ***1000 to 0100***

***When hours for sale of alcohol are extended on Bank Holidays and Event days these hours are also extended between 0700 to 0100 for films and 1000 to 0100 for other entertainment***

**2 Late Night Refreshment (L)**

***Sunday to Thursday 2300 to 0030***  
***Friday and Saturday 2300 to 0130***

***When hours for alcohol are extended on Bank Holidays and Event Days these hours are also extended until 0100 the following day***

**3 Sale of Alcohol (M)**

***Sunday to Thursday 1000 to 0000***  
***Friday and Saturday 1000 to 0100***  
***New Years Eve 1000 to 0130 2 January***

***These hours are also extended from 1000 to 0130 on Fridays, Saturdays, Sundays and Mondays of Bank Holiday Weekends, Christmas Eve and Boxing Day.***

***These hours are also extended from 1000 to 0100 on up to 30 other event days per annum at the applicant's discretion.***

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

***Sunday to Thursday 1000 to 0030***  
***Friday and Saturday 1000 to 0130***  
***New Years Eve 1000 to 0130 2 January***

***Opening hours may be extended on Bank Holidays and event days from 0700 and 1000 and between 0000 and 0100 at the end of normal opening hours.***

The applicant has also stated that he would like to have the facility of the use of a marquee outside the premises. This does not equate with the Operating Schedule which states Indoor Entertainment only. The applicant wishes *Outdoor entertainment for a marquee* to be an amendment to the Operating Schedule. However, as the application was advertised stating indoor entertainment only, it is not considered that outside events can be considered in connection with this application, and a further application to vary (advertised in the usual way) would have to be made before outside entertainment could be agreed.

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

**Designated Premises Supervisor**

***Ian Sainsbury***

**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. There is no application to remove the conditions attached to the Public Entertainment Licence.

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).

**Notice of Hearing**

Notices of the hearing were sent to all Parties on 14 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. T. W. Faragher

#### **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 interested parties, the operating schedule 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 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 observations of the the Interested Parties, the operating schedule 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>Sunday to Thursday</b>   | <b>1000 to 0030</b>           |
| (ii)  | <b>Friday and Saturday</b>  | <b>1000 to 0130</b>           |
| (iii) | <b>New Year's Eve</b>   | <b>1000 to 0130 2 January</b> |
| (iv)  | <b>Bank holidays and on<br/>up to 30 Event Days per<br/>annum</b> | <b>0700 to 0100</b>           |

***On Bank Holidays and Event Days may be extended on Bank Holidays and event days from 0700 and 1000 and between 0000 and 0100 at the end of normal opening hours.***

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

- |       |  |                               |
|-------|--|-------------------------------|
| (i)   | <b>Sunday to Thursday</b>  | <b>1000 to 0000</b>           |
| (ii)  | <b>Friday and Saturday</b>   | <b>1000 to 0100</b>           |
| (iii) | <b>New Years Eve</b>   | <b>1000 to 0100 2 January</b> |
| (iv)  | <b>Fridays, Saturdays,<br/>Sundays and Mondays<br/>on Bank Holiday weekends,</b> | <b>1000 to 0100</b>           |

***Christmas Eve and Boxing Day, and  
On up to 30 other Event Days per  
annum at the applicant's discretion.***

***[Note – this does not allow any drinking up time – the Sub-Committee will need to consider whether to adjust the times requested to cover this point.]***

3. The hours the premises may be used for regulated entertainment 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 0000<br/>for live music</i></b>          |
| (iii) | <b><i>Friday and Saturday</i></b> | <b><i>1000 to 0100<br/>for other entertainment</i></b> |

***When hours for sale of alcohol are extended on Bank Holidays and Event Days, these hours are also extended between 1000 and 0100 (0700 and 0100 for films).***

4. The hours the premises may be used the provision of late night refreshment 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>2300 to 0130</i></b> |

***When hours for sale of alcohol are extended on Bank Holidays and Event Days these hours are also extended between 2300 and 0100***

5. Extensions of hours in respect of “Event Days” shall be subject to the Licensee serving seven working days written notice on the Police and the Licensing Authority. If the Police object to the event within three working days of being served with notice, the event may only take place with the consent of the licensing authority.

### **All Licensing Objectives**

**The existing conditions in the Public Entertainment Licence will also be included in any new premises licence save where they are superseded by any of these new conditions.**

[Dealt with in relevant sections below].

### **Crime and Disorder**

1. The premises shall be a member of a local Pubwatch scheme if available

2. Not less than 10 working days written notice shall be provided to Police when events days are planned.
3. New Staff shall be trained in the requirements of the Licensing Act 2003 and 'drugs awareness' immediately upon recruitment.

### **Public Safety**

1. Function bookings shall be limited to 100 persons

### **Public Nuisance**

1. 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.
2. Regulated entertainment shall be restricted to the inside of the premises.
3. 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 after 2030.
4. Live Music shall end at 2345 except on New Years Eve and New Years Day
5. A noise limiter shall be installed, calibrated and maintained to the satisfaction of the Director of Communities and shall be operated in accordance with such instructions as the Director of Communities may from time to time issue.
6. The garden shall be closed at or before 2300 and all customers cleared from the area.
7. Kitchen extract filters shall be cleaned regularly to minimise the impact of cooking smells on neighbours.

### **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, 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. 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 Ian Sainsbury and Catherine Sainsbury
2. Representations by Interested Parties
  - 2.1 T.W. Faragher
3. Map of premises location.