

## **LICENSING SUB – COMMITTEE**

20 October 2005

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**The Forester Arms  
 71, North Walls  
 Winchester**

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**Part A.****1. Application****Applicant:** Greene King Retailing Limited**Premises:** The Forester Arms**Conversion of the Existing Licence**

The conversion of the existing licence(s) was granted under delegated powers on 3 October 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 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, and regulated entertainment.

Notice of the application was displayed outside of the premises for a period of 28 days until 29 September 2005, and advertised in the Hampshire Chronicle on 5 August 2005.

The original application was for extra hours for regulated entertainment and the sale of alcohol on Bank Holidays, Sporting Events and private parties. This part of the application was withdrawn and modified on 11 October 2005 to the hours shown in Section 5 below.

**Designated Premises Supervisor*****Martin Meijer*****Steps to promote the Licensing Objectives**

Please see Section Q Appendix 1

**Notice of Hearing**

Notices of the hearing were sent to all Parties on 4 October 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**

The Police have made representations regarding public nuisance which are shown at Appendix 2.

**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. & Mrs J. Still
2. Naomi Tyler
3. Mary Robinson
4. Jeffrey and Anna Sirl
5. Sara Walker
6. Clive Harrison
7. Andrea Bardwell and Michael Lyndon
8. Linda Gregory and Andrew Wright

#### **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 Police, 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 to prevent crime and public disorder relating to the premises 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 representations of the Interested Parties, the Police, 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>Monday to Wednesday</b>	<b>1100 to 2320</b>
(ii)	<b>Thursday</b>	<b>1100 to 2350</b>
(iii)	<b>Friday</b>	<b>1100 to 0050</b>
(iv)	<b>Saturday</b>	<b>0900 to 0020</b>
(v)	<b>Sunday</b>	<b>1100 to 2320</b>

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

(i)	<b>Monday to Thursday</b>	<b>1100 to 2300</b>
(ii)	<b>Friday</b>	<b>1100 to 0030</b>
(iii)	<b>Saturday</b>	<b>0900 to 0000</b>
(iv)	<b>Sunday</b>	<b>1100 to 2300</b>

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

Live and Recorded Music

(i)	<b>Sunday to Saturday</b>	<b>1100 to 2330</b>
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**All Licensing Objectives**

[Dealt with in relevant sections below].

**Crime and Disorder**

1. Before they first commence their duties at the premises, all staff shall be trained to deal with a) illegal activities and conflict management b) dealing with customers when service is refused on the basis of drunkenness.

**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 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.

***Embedded Restrictions***

1. The provisions of the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955 and the Children and Young Persons Act 1933 shall 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. Maintained illuminated exit signs should be installed over the exits.

**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 Retailing Limited
2. Representations by Responsible Authorities
3. Representations by Interested Parties
4. Map of premises location.