

LICENSING SUB – COMMITTEE

8 November 2005

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Grant the Premises Licence for:

**Mississippi Restaurant
33 Jewry Street
Winchester**

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Part A.**1. Application**

Applicant: Mr Nguyen Lieu

Premises: Mississippi Restaurant

Application for a New Licence.

The application is for the grant of the Premises Licence under Section 17 of the Licensing Act 2003, for late night refreshment

Notice of the application was displayed outside of the premises for a period of 28 days until 19 October 2005, and advertised in the Winchester Observer on 28 September 2005.

Notice of Hearing

Notices of the Hearing were sent to all Parties on 26 October 2005

Planning Consent

The Applicant has the benefit of Planning Consent under the Town and Country Planning Act 1990 subject to a condition limiting the business hours of the premises to 1100 to 2400 Sunday to Thursday, 1100 to 0230 on Fridays and 1100 to 0200 on Saturdays.

Steps to promote the Licensing Objectives

Please see Section P Appendix 1

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

The representations from the Director of Communities recommend conditions to address the Public Nuisance objective. He also makes recommendations that the applicant should consider regarding Public Safety.

(Appendix 2.1)

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

No representations received.

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 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 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 persons leaving the premises having regard to the observations of the Director of Communities, 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

There are no mandatory conditions which must be applied in respect of this application.

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 Thursday | 0800 to 0100 | [1100 to 0000] |
| (ii) | Friday | 0800 to 0300 | [1100 to 0230] |
| (iii) | Saturday | 0800 to 0300 | [1100 to 0200] |

The times in brackets are those allowed by the current Planning Consent and are recommended by the Director of Communities.

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

- | | | | |
|-------|---------------------------|---------------------|-----------------------|
| (i) | Sunday to Thursday | 2300 to 0100 | [2300 to 0000] |
| (ii) | Friday | 2300 to 0300 | [2300 to 0230] |
| (iii) | Saturday | 2300 to 0300 | [2300 to 0200] |

The times in brackets are those allowed by the current Planning Consent and are recommended by the Director of Communities.

All Licensing Objectives

1. All staff shall be fully trained on the relevant aspects of the Licensing Act 2003

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.

Public Safety

None

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. 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.
3. The applicant shall provide litter bins at the premises for the use of customers.

Protection of Children.

None

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 Mr. Nguyen Lieu
2. Representations by Responsible Authorities
3. Other Appendices.
 - 3.1 Map of the Premises
 - 3.2 Planning Consent