

LICENSING SUB – COMMITTEE

30 August 2006

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

1. **Transfer of Premises Licence**
2. **Vary the Premises Licence to specify an individual as Designated Premises Supervisor**

**Heart in Hand
40 Bar End Road
Winchester**

Part A. Report *Buff*

- 1 **Application**
- 2 **Responsible Authorities**
- 3 **Interested Parties**
- 4 **Observations**
- 5 **Conditions**
- 6 **Other Considerations**

Part B. Appendices

Appendix 1 Application *White*
Appendix 2 Representations from Responsible Authorities *Green*
Other Appendices *White*

Part A.**1. Application**

Applicant: Eileen Sheila Osborne

Premises: Heart in Hand, 40 Bar End Road, Winchester

- 1.1 This application is to transfer the Premises Licence for the Heart in Hand from Admiral Taverns Ltd to Sheila Osborne, under Section 42 of the Licensing Act 2003. It is also to vary the licence to specify Ms Osborne as the Designated Premises Supervisor under Section 37.
- 1.2 The process of determining these types of application is delegated to Authorised Officers of the Council. In this case, the Chief Officer of Police has objected to the transfer and variation on the grounds that it would undermine the crime prevention objection and therefore the application must be determined by the Licensing Sub-Committee.
- 1.3 The premises were sold to Orchard Homes and Developments, Commercial Road, Southampton on 22 May 2006. There was no application to transfer the Premises Licence to Orchard Homes from Admiral Taverns.
- 1.4 The premises were then leased to Neil Marshall from Swansea, who retained the Designated Premises supervisor, Mrs Maria Walton. Mrs Walton informed the Licensing Authority that she was no longer the DPS and that Mr Marshall had closed the premises on 28 June 2006.
- 1.5 Admiral Taverns have no further interest in the premises.
- 1.6 This application was made on 22 July 2006 and had immediate effect pending Police objection and determination by the Licensing Sub Committee.

Designated Premises Supervisor

Eileen Sheila Osborne

Notice of Hearing

Notices of the hearing were sent to all Parties on 14 August 2006.

Relevant Representations**2. Responsible Authorities**

Hampshire Constabulary has been served with a copy of the application and has made representations regarding crime and disorder associated with the premises. The Police are concerned that the application is solely to protect the property until planning consent is granted and conversion to living accommodation is undertaken.

3. Interested Parties

There are no interested parties.

4. Observations

The Sub-Committee is obliged to determine this application with a view to promoting only one Licensing Objective:

- The prevention of crime and disorder

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 the representation made by the Police.

The Sub-Committee must take such of the following steps it considers necessary to promote the Crime and Disorder Licensing Objective:

1. Grant the applications, or
2. Reject the applications.

The decision made under 2 above must actually be necessary to promote the Licensing Objective. The Sub-Committee must give reasons for either decision.

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**

If the application to transfer is granted, there may be no amendments to the conditions attached to the licence, and no further conditions may be added.

6. Other Considerations**Corporate Strategy (Relevance To:)**

This report covers issues which affect the Community Safety, Economic Prosperity, priority of Safer and More Inclusive Communities set out in the Corporate Strategy.

Resource Implications

None

Appendices

1. Application by Eileen Sheila Osborne
2. Representations by Responsible Authorities
3. Map of premises location.