

LICENSING SUB – COMMITTEE

24 March 2009

Report of the Head of Legal Services

Contact Officer: John Myall. Tel No: 01962 848443

Application : Variation of Designated Premises Supervisor

Premises: The Old Market Inn, The Square, Winchester

Part A. Report Buff

- 1 Application
- 2 Responsible Authorities
- 3 Observations
- 4 Other Considerations

Part B. Appendices

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Part A.

1. Application

Applicant: Colin Clark

Premises: Old Market Inn

- 1.1 This is an application to vary the designated premises supervisor (DPS) for the Old Market Inn, made under Section 37 of the Licensing Act 2003 which was received on 20 February 2009.
- 1.2 An application was also received on 20 February 2009 for the transfer of the premises licence to the applicant from the previous licence holder, Dolphin (Romsey) Ltd, to take effect from 24 February 2009.
- 1.3 The previous DPS was Salvatore La Gumina.
- 1.4 The Chief Officer of Police for Hampshire received a copy of the application on 20 February 2009.
- 1.5 Section 37 (4) and (5) allows the Chief Officer of Police to object to the variation, within 14 days of receipt, if he is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.
- 1.6 A notice of objection to the variation was received on 3 March 2009.
- 1.7 The Chief Officer has made the objection on the grounds of crime and disorder. The applicant is already DPS at two premises in the city centre. The Old Market Inn has been subject of a number of incidents and complaints, and the Police have concerns that the applicant will not be in a position to provide adequate day to day supervision at the premises.
- 1.8 Notices of the hearing were sent to all Parties on 6 March 2009.

Relevant Representations

2. Responsible Authorities

Only the Police are a responsible Authority with respect to this application.

- Hampshire Constabulary - Objection notice received.

3. Observations
 - 3.1 The Sub-Committee is obliged to determine this application with a view to promoting the Prevention of Crime and Disorder Licensing Objective.
 - 3.2 In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's Licensing Policy.
 - 3.3 The Sub-Committee must have regard to all of the representations.
 - 3.4 The Sub-Committee must take one of the following steps it considers necessary to promote the Licensing Objectives:
 1. Having regard to the notice, reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
 - or
 2. Grant the application to vary the DPS.

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.

4. Other Considerations

Corporate Strategy (Relevance To:)

This report covers issues which affect the principles of “safer and more inclusive communities” and “safeguarding our high quality environment for the future.”

Resource Implications

A licence fee of £23 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by Colin Clark
2. Representation by Police

[Insert name and address of relevant licensing authority and its optional reference number (optional)]

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We Colins Pub Co Limited being the premises licence holder, apply to vary
(full name(s) of premises licence holder)
 a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

PREM 285

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description	
The Old Market Inn 34 The Square	
Post town	Post code
Winchester	SO23 9EX
Telephone number (if any)	
01962 627 341	

Description of premises (please read guidance note 1)

Part 2

Full name of proposed designated premises supervisor
Colin Michael Clark

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any) 290

Full name of existing designated premises supervisor (if any)
Salvatore La Gumina

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it


Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or the relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 3).
If signing on behalf of the applicant please state in what capacity.

Signature 
Date 20/2/09
Capacity Licence Holder

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature
Date
Capacity

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Guidance notes


1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

Part A

Consent of individual to being specified as premises supervisor

I Colin Michael Clark [full name of prospective premises supervisor]
of The Exchange, 9 Southgate St, Winchester
SO23 9DZ [home address of prospective premises supervisor]
hereby confirm that I give my consent to be specified as the designated premises
supervisor in relation to the application for Premises Licence [type of application]
by Colin's Pub Company Limited [name of applicant]
relating to a premises licence PREM 285 [number of existing licence, if any]
for The Old Market Inn, 34 The Square, Winchester,
SO23 9EX [name and address of premises to which the application relates]
and any premises licence to be granted or varied in respect of this application made
by Colin's Pub Company Limited [name of applicant]
concerning the supply of alcohol at The Old Market Inn, 34 The Square
Winchester [name and address of premises to which application relates].
I also confirm that I am applying for, intend to apply for or currently hold a personal
licence, details of which I set out below.


Personal licence number 290 [insert personal licence number, if any]
Personal licence issuing authority Winchester City Council
[insert name and address and telephone number of personal licence issuing authority, if
any]

 signed
Colin Clark name (please print)
20/2/09 dated

PART B

Consent of premises licence holder to transfer

I/we SALVATORE LA GUMINA [full name of premises licence holder(s)]
the premises licence holder of premises licence number PREM 285 [insert
premises licence number] relating to The Old Market Inn, 34 The Square
Winchester, SO23 9EX [name and address of
premises to which the application relates] hereby give my consent for the transfer of
premises licence number PREM 285 [insert premises licence number]
to Colin Michael Clark [full name of transferee].

 signed
S. LA GUMINA name (please print)
20.02.09 dated



HAMPSHIRE CONSTABULARY

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GRANT OF PERSONAL LICENCE OR TEMPORARY EVENT NOTICE, TRANSFER OF PREMISES LICENCE HOLDER OR DESIGNATED PREMISES SUPERVISOR.

FORM FOR REPRESENTATIONS FROM HAMPSHIRE CONSTABULARY

Before completing this form please read the guidance notes on the last page.
Once completed please send your representation form to your local Licensing Authority.
You must keep a copy of the completed form for police records.

Hampshire Constabulary wish to make an objection and representation, under the Licensing Act 2003, regarding the:

- | | | |
|---|-------------------------------------|-------------------------------|
| 1. Grant for a Personal Licence | <input type="checkbox"/> | Object within 14 days |
| 2. Grant of a Temporary Event Notice (TEN) | <input type="checkbox"/> | Object within 48 hours |
| 3. Transfer of Premises Licence | <input type="checkbox"/> | Object within 14 days |
| 4. Transfer of Designated Premises Supervisor | <input checked="" type="checkbox"/> | Object within 14 days |

Name of applicant:

Colin Clark

Details of Relevant Conviction (*Personal Licence Applications only*)

Address of Premises or Club Premises (*Not relevant for Personal Licence Applications*)

The Old Market Inn
34 The Square

Post town: Winchester

Postcode: SO239EX

Time and date the Police received the Application - For TEN's Police must object within 48 hours.

hrs on 20/02/2009 (*date*)

Police Details

Hampshire Constabulary is a responsible authority.

Name and Address:

Winchester Police Station
North Walls
SO23 8DW

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Please state the ground(s) for representation – The objection must relate to the Crime and Disorder Objective.

Colin Clarke has been a Licensee within Winchester City Centre for some years. He holds the important position of DPS(Designated Premises Supervisor) at the Exchange Public House, Southgate Street and as from September 2008 also at Alfies in the High Street.

Police records show very few incidents relating to the Exchange Public House over the last two years and Police have had no issues at all with the running of the Premises. Following Colin Clark's application to vary the DPS to himself in September 2008 at what is now called Alfies in the High Street Police made no representation.

Alfies unfortunately has attracted Police attention, attracting nine reports since Colin Clark took over as DPS in September 2008. These reports relate to criminal damage, public order, drunkenness and drugs. Without doubt the prominent position within the City Centre has a bearing on this premise and it appears to be a busy successful venue. This premise however has no conditions for Door staff within its Licence but some staff are SIA qualified and appear to act in this capacity as and when the need arises.

Colin Clark now seeks to vary himself to the Old Market inn, 34 the Square in addition to the other two venues.

Police wish to make a representation to Colin Clark being varied as DPS at the Old Market Inn. These reasons not only include the above, but also for the fact that the Old Market Inn has been a problematic City Centre Pub for some time attracting a variety of complaints relating to noise, public order, drunkenness, criminal damage and drug intelligence. Unfortunately as many pubs have found to their cost the Smoking ban has had a profound impact on their business. The applies greatly to The Old Market Inn as there is no garden/ courtyard for smokers to go and they congregate outside on the narrow pavement carrying on the business of the pub outside in the street.

The fact that smokers gather outside also impacts on the noise and anti social behaviour, as in many cases alcoholic drinks are taken outside into the Alcohol Exclusion Zone. This has resulted in Police Officers on many occasions being forced to intervene with persons in drink wandering across the road and even into the Cathedral Grounds. Because of the issues within the Square the area has been designated a 'Hot Spot' attracting extra Police resources.

As there are currently no conditions on The Old Market Inn Premises Licence relating to door staff any enforcement has unfairly fallen upon the bar staff or previous Managers to attempt to control as the DPS presence was not always evident. Door staff from nearby Licensed Premises have also

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intervened on occasions when there have have been problems outside.

Although it has yet to be seen how Colin Clark will address this ongoing issue and control the customers we believe it absolutely essential that there is a prominent DPS clearly to be seen in place. This person must be fully contactable, accountable and in day to day control. This we believe will not be the case with Colin Clarke also holding the position of DPS in two other City Centre venues and we therefore wish to make a representation to this variation of DPS to him.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS REPRESENTATION

Recommendation of Police Officer

As Above

Signature of Police Officer Completing

Signature: PC 1526 Gary Miller. Winchester District Licensing Officer.(Delegated Responsibility)

Date: 24/02/2009



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PREMISES SUPERVISOR.**

FORM FOR REPRESENTATIONS FROM HAMPSHIRE CONSTABULARY

Recommendation of Police Sergeant

As above.

Signature of Police Sergeant

Signature:

[Redacted Signature]

Date:

3/3/01

Decision of Police Licensing Inspector

[Empty Box for Decision]

Signature of Police Licensing Inspector

Signature:

Date:

NOTES FOR GUIDANCE

1. The grounds for representation must be based on the crime and disorder objective.
2. Please list any additional information or details, for example dates of problems which are included in the grounds for representation if available.
3. The representation form must be signed.
4. **For Temporary Event Notices a copy of this form must be given to the Local Authority and applicant within 48 hours of the original service on the Police.** For other applications the objection must be within 14 days.

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