

LICENSING SUB-COMMITTEE**9 February 2009****Attendance:**

Councillors:

Jackson (Chairman) (P)

Biggs(P)

Evans(P)

Others in Attendance who did not address the meeting:

Councillor Pearson

Officers in Attendance:

Mr J Myall (Licensing and Registration Manager)

Mrs C Tetstall (Property and Licensing Solicitor)

1. **REVIEW OF PREMISES LICENCE – THE NEW INN, CHAPEL ROAD, SWANMORE**
[\(Report LR289 refers\)](#)

The Sub-Committee met to consider an application by Greene King Retailing Limited, to vary the Premises Licence for The New Inn, Chapel Road, Swanmore, under Section 34 of the Licensing Act 2003. The application was to extend the hours for the sale of alcohol and provision of live music, and to add recorded music, late night refreshment, dancing, exhibition of films and facilities for making music plus indoor sporting events. Additionally the applicant requested that a condition preventing children from being allowed on the premises after 9pm be removed.

Present at the meeting were Mr Nick Morris of Greene King Retailing Limited (Applicant) and Mr Simon Hawkins (Tenant and Designated Premises Supervisor (DPS) – The New Inn, Swanmore). In addition, Mr Michael Westwell (Swanmore Parish Council), Mr Crawford Wright, Mr Barry Eaton and Mrs Wendy Young (residents) were also present.

Mr Myall presented the application as set out in the Report and confirmed the change to opening times, including variations to bank holiday hours and the increase in provision of entertainment from one to seven days per week. He reported that no representations had been made by any Responsible Authorities and no complaints regarding the premises had been registered with the Police, or the 101 community telephone number, since Mr Hawkins had begun managing the premises. However, 16 interested parties had submitted letters of representation in response to this application, although one of these had been withdrawn due to the resident wishing to remain anonymous. All representations concerned existing noise and disorder issues

which affected residents in the vicinity of the premises. Mr Myall explained that, should the Sub-Committee be minded, further conditions could be imposed to control the concerns expressed in the residents' letters, whilst still granting the licence variation.

Mr Myall clarified that the notice of application had not been displayed at the premises when the application was made in December 2008. Subsequent to Mr Myall's request to Greene King, the notice had been prominently displayed for the required 28 days at the car-park entrance to the premises.

Mr Nick Morris spoke as a representative of Greene King Retailing Limited. He established that the purpose of the proposed variation was to allow the licence holder more flexibility. There was no intention to establish a seven day programme of music events in the evenings as such a change was not financially viable. Mr Morris explained that the only complaints the DPS had received related to a light within the New Inn car-park, which the owner was legally required to ensure was switched on for half an hour after closure. He assured the meeting that there had not been any public order disturbances at the premises and that they had adopted the Challenge 21 Scheme, which sought to prevent underage drinkers.

Mr Hawkins added that, in response to the representation from residents, noise levels would continue to be monitored. He again reinforced that there was no intention to use the varied license for entertainment every evening, but that the use of Temporary Event Notices was not sufficient as this allowed only 12 events per year at any one venue. In response to questions he agreed that informing neighbours directly about the variation could have been a more valid approach; however he had not been aware of the strength of feeling held by the residents.

The Chairman queried the capacity of the premises, and whether the increase in entertainment may lead to the internal rooms and garden becoming congested and potentially unsafe. Mr Hawkins was unclear on the exact capacity permitted and judged overcrowding visually as he did not employ dedicated security staff, however bar staff monitored different areas of the premises at his request. His events were only advertised on display boards (within the premises) and via word of mouth, so capacity was unlikely to be exceeded. Mr Myall confirmed that the Fire Service, rather than the Licensing Act, set the premises' capacities. However, no representation had been received from the Fire Service as a Responsible Authority.

Mr Michael Westwell spoke as a representative of interested parties to the application. He stated that he was the Chairman of Swanmore Parish Council and, as such, was representing Ms Noble and Mr Taylor who were both long term residents of Chapel Road. He explained that they had genuine fears that the proposed variation to the licence would increase traffic and public nuisance disturbances by virtue of the longer hours and the likelihood that visitors would already have consumed alcohol before arriving at the premises later in the evening. The more flexible nature of the licence may also give rise to increased disorderly behaviour over a sustained period. He explained that both Ms Noble and Mr Taylor were also very concerned at the proposal to allow children into the venue after 9pm, as the premises had no designated

family area. They did not consider this to be consistent with good child welfare.

Mr Crawford Wright spoke as an interested party to the application. He also represented local residents Mr and Mrs Phipps and Mr and Mrs Smith. He explained that Mr Phipps had concerns under all four of the licensing objectives and felt the surrounding area was too residential for the variations to hours as proposed. Inevitably, an increase in the number of patrons could increase road congestion and lead to residents' driveways being blocked. Another key concern was the broken glasses left in the street near to the New Inn, and the possible harm this could cause to school children using the road. Mr Phipps reported brawls and bad language which he considered liable to increase, due to extra patrons visiting the premises to attend the live music events. The Phipps' also considered that there was no need for a child to be present at the premises after 9pm. Mr Wright then spoke on behalf of Mr and Mrs Smith stating that the couple considered that it was unacceptable for the DPS not to have notified residents in person, prior to applying for the licence variation. Noise from the premises already caused severe sleep disruption and this had increased following its change in ownership on 14 July 2008. Mr Wright's personal concerns related to the increased volume in music and audible swearing from customers following the management hand-over.

Mr Barry Eaton spoke as an interested party to the application and on behalf of Mr Robert Azavedo, a local resident. He informed the Sub-Committee that he had previously written to the Council to support the New Inn and wanted it to be successful, providing there was no significant, detrimental effect on residents. He gave an example of a recent disturbance which had not ceased until 1.20am. Whilst he recognised the problems caused by the new smoking ban, Mr Eaton did not feel a significant attempt had been made to ensure patrons smoked at the back of the premises. He considered that this issue, together with the volume of music, would only be exacerbated during the summer months due to open windows. He also highlighted his concerns regarding a light that was left on outside the venue for longer than he felt necessary.

Mrs Young also spoke as an interested party to the application. Her family had resided behind the pub garden for 20 years and she established her right to not be disturbed within her own home. She commented on a disturbance on 7 February 2009 where a large group of patrons had congregated in the rear garden subjecting neighbours to noise, foul language and singing until 12.50am. She explained that, in the past, events at the premises had been conducted to benefit the local village, but this was no longer the case. Mrs Young had also discovered advertisements for New Inn events on social networking websites.

In response to questions from Members, Mr Eaton explained that the concerns raised were recent and residents had not previously felt the need to complain to the City Council or Police. The DPS confirmed that he had been surprised at the number of complainants, as he had been unaware of the distress experienced.

Members agreed to adjourn the meeting to allow the Applicant and DPS to develop some suggested conditions they could add to the licence to combat the issues raised by Interested Parties.

When the Sub-Committee reconvened Mr Morris raised no objection to retaining the current licence condition which ensured that no child under 16 could be allowed on the premises after 9pm. He also offered to provide local residents with Mr Hawkins telephone number, should they need to contact him directly regarding any possible future disturbances. To help resolve noise issues, he proposed that staff would be instructed to ask customers to leave more quietly at night and that signs would be displayed to this effect. He added that, due to there not being sufficient trade to support events every evening, a restriction could be put on the number of times per week that regulated entertainment events would be permitted. He believed no more than three events per week would be required.

In response to Members' questions, Mr Myall said that some other venues also had this restriction placed upon them and were required to inform the Police and Council in advance of any events.

The Sub-Committee retired to deliberate in camera.

In her closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made. It had taken into account the duties under the Crime and Disorder Act 1998, and the rights set out in the Human Rights Act 1998.

RESOLVED:

That the application for variation of the Premises Licence be refused

REASON FOR DECISION:

The Sub Committee decided to reject the application because it was not convinced that in granting the application it would be promoting the licensing objectives of prevention of crime and disorder, prevention of public nuisance and ensuring public safety.

2. **EXEMPT BUSINESS**

RESOLVED:

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2. That the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
##	Application for the grant of a Personal Licence) Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Para 1 & 3 Schedule 12A refers)

3. **APPLICATION FOR THE GRANT OF A PERSONAL LICENCE** (Report LR288 refers)

The Sub-Committee considered the above Report which set out the circumstances surrounding the application for a Personal Licence (detail in exempt minute).

The meeting commenced at 9.30am and concluded at 12.50pm.