

LICENSING SUB-COMMITTEE**12 October 2010****Attendance:**

Councillors:

Izard (Chairman) (P)

Prowse (P)

Wright (P)

Officers in Attendance:

Mr J Myall (Licensing and Registration Manager)

Mrs C Tetstall (Property and Licensing Solicitor)

Mrs A Toms (Head of Environment Protection)

Others in attendance who did not address the meeting:

Councillor Pearson

1. CHAIRMAN'S ANNOUNCEMENT

The Chairman explained that the application to vary the Designated Premises Supervisor licence for The Albion, Winchester (LR337 refers), that had been included on this agenda, had been withdrawn at the request of the applicant.

2. REVIEW OF PREMISES LICENCE – THE NEW INN, CHAPEL ROAD, SWANMORE
[\(Report LR335 refers\)](#)

The Sub-Committee met to consider a review of the premises licence for The New Inn, Chapel Road, Swanmore.

The Chairman welcomed to the meeting Mr Wright (an interested party), PC Miller (Hampshire Constabulary, a relevant authority) and Mr Smith (Popleston Allen Solicitors for the premises licence holder, Greene King) and Mr Price (Greene King Business Development Manager).

Mr Myall presented the application as set out in the Report.

In summary, he explained that the Head of Environment had called for a review of the premises licence for The New Inn, Swanmore, relating to the licensing objective for the prevention of public nuisance. During the consultation period of the Review, representations had been received from the Police and five interested parties. All these representations related to noise and disturbance.

Mrs Toms explained that the Council had received a number of complaints from different neighbouring properties regarding noise from live and recorded music coming from the premises, the noise of patrons in the garden area and their noise when leaving the premises.

Local residents had logged complaints regarding the premises and, as a result of this, Mrs Toms had visited the Designated Premises Supervisor (Mr Hawkins) with PC Miller to advise him of the need to keep the doors and windows shut during live music, to regularly monitor the noise from the boundary, to monitor the garden and ensure that patrons leave the premises quietly. Despite this visit, the Council continued to receive complaints regarding the premises and a warning letter was sent to the Designated Premises Supervisor and the Licence Holder, Greene King.

Following this, the premises were visited by Mr Myall, who found no evidence that the Designated Premises Supervisor was not complying with the conditions of the licence. Separately and in response to a complaint, Sergeant Chapman also visited the premises and noted that recorded music was being played, contrary to the licensing conditions. The premises were then visited by the Council's Scientific Officer, Mr Tidridge, who assessed that the noise from the premises when measured from inside neighbouring properties was excessive. Mr Tidridge also noted that the external door of the premises had been left open during live entertainment and that there was no evidence of management intervention with patrons' use of the garden area.

Therefore, the Head of Environment had requested the review, having regard to the above findings, the semi-rural location of the premises and the licensing objective for the prevention of public nuisance. Mrs Toms recommended that permission to play live music be removed from the premises licence, that the garden area be closed to patrons after 2100 hours and that the premises' terminal hour be brought forward to 2300 on all days.

As a responsible authority under the Licensing Act, PC Miller explained that the Police had received 14 complaints regarding the premises and that he concurred with the assessment of the Head of Environment.

Mr Wright then addressed the Sub-Committee as an interested party and local resident. In summary, he conveyed local residents' annoyance at the level of noise relating to the premises; that, as licence holders, the premises were Greene King's responsibility and that the premises were attracting patrons who did not live in the village. Mr Myall clarified that where customers came from was not a relevant factor for the Sub-Committee.

The Sub-Committee then heard from Mr Smith, on behalf of the Premises Licence Holder, Greene King. In summary, he explained that Greene King had put their name on the premises licence so that they could better ensure the proper management of their tenanted premises. In response to Mr Wright's comments, Mr Smith drew the Sub-Committee's attention to recent case law which had demonstrated that the Designated Premises Supervisor, not the holder of the premises licence (so long as they had acted responsibly), was responsible for complying with the terms of the licence.

He also explained that the only contact with Greene King regarding noise complaints was a letter from Mrs Toms, which had failed to reach the correct department. Mr Smith highlighted that all of the complaints related to the tenancy of the current Designated Premises Supervisor.

Mr Smith explained that, separate to neighbours' complaints, Greene King had their own concerns regarding Mr Hawkins and, following a number of unsatisfactory visits from Business Development Managers, had agreed to terminate his tenancy with effect from 18 October 2010. He added that the premises had ceased trading from 27 August 2010. Greene King were currently seeking a new tenant and, once appointed, the premises would be regularly monitored by Greene King's Business Development Managers.

In concluding, Mr Smith reminded the Sub-Committee of its responsibility to ensure that conditions were proportionate and necessary. He reminded them of the Government's guidance issued under the Licensing Act paragraph 11.19 (which states licensing authorities should take no more remedial action than is necessary and proportionate to address the causes of any concerns) and 11.20 (which states that licensing authorities should be aware that the removal and replacement of the designated premises supervisor might be sufficient to remedy a problem of poor management decisions made by that individual) and proposed that the Sub-Committee amend the conditions as follows:

1. The Designated Premises Supervisor shall be removed from the Premises Licence.
2. The premises shall remain upon the Risk Register of Greene King Retailing Limited for a period of 12 months following the reopening of the premises.

Visits shall be made to the premises at least monthly by the Business Development Manager and monthly contact shall be made with an Environmental Health Officer from Winchester City Council.
3. All external doors and windows shall remain closed during the performance of any regulated entertainment, other than for access and egress.
4. Prominent signage shall be displayed in the external areas of the premises notifying customers that this is a residential area and to respect the peaceful rights of local residents.
5. Signage shall be displayed outside the premises with a telephone contact number of the Premises Licence Holder shown upon it.
6. The Designated Premises Supervisor shall arrange for at least bi-monthly meetings to be held with local residents living in the closest proximity to the premises to discuss the operation of the premises and to put in place any measures that are required to deal with any issues arising from the premises.

In order to preserve the viability of the premises, Mr Smith requested that the ability to provide live music on Saturdays be retained, but reduced from 2330 hours to 2300 hours and that there should be no drinking permitted outside the premises after 2300. He highlighted the Council's licensing policy which required premises to be inaudible to local residents after 2300 hours.

Mr Smith also requested that the premises' terminal hours remain unchanged to ensure its future viability. He explained that the longer hours had been operated with success by the tenants prior to Mr Hawkins.

In response to questions, Mr Smith raised no objection to the installation of a noise limiting device in the premises.

In summing up her application, Mrs Toms raised no objections to the amended conditions set out by Mr Smith.

The Sub-Committee retired in camera to consider the application.

In his 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.

The Sub-Committee agreed to vary the premises licence by amending the conditions set out below, shown in bold and italics.

REASON:

The Sub-Committee had reviewed the premises licence and decided to vary its conditions, having taken into account the representations received together with paragraphs 11.19 and 11.20 of the Government's guidance; in order to promote the licensing objective of preventing public nuisance.

The Chairman also explained that the parties had 21 days in which to appeal against the sub-committee's decision to the Magistrates' Court.

RESOLVED:

That the application for a review of the premises licence be granted, subject to the following conditions:

- 1. The Designated Premises Supervisor shall be removed from the Premises Licence with immediate effect.***
- 2. The premises shall remain upon the Risk Register of Greene King Retailing Limited for a period of 12 months following the reopening of the premises.***
- 3. Visits shall be made to the premises at least monthly by the Business Development Manager and monthly contact shall be made with an Environmental Health Officer from Winchester City Council.***

- 4. All external doors and windows shall remain closed during the performance of any regulated entertainment, other than for access and egress.**
- 5. Prominent signage shall be displayed in the external areas of the premises notifying customers that this is a residential area and to respect the peaceful rights of local residents.**
- 6. Signage shall be displayed outside the premises with a telephone contact number of the Premises Licence Holder shown upon it.**
- 7. The Designated Premises Supervisor shall arrange for at least bi-monthly meetings to be held with local residents living in the closest proximity to the premises to discuss the operation of the premises and to put in place any measures that are required to deal with any issues arising from the premises.**
- 8. No live music shall be permitted unless a noise limiter device is installed calibrated operated and maintained to the satisfaction of the Head of Environmental Protection.**
- 9. Live music – may be provided indoors only on Saturdays between 2000 – 2300.**
- 10. There shall be no drinking in outside areas (the garden and front car park) after 2300.**

Existing conditions

Crime and Disorder

1. All external walkways and car parking areas shall be illuminated during the hours of darkness up to 30 minutes after the premises close.
2. Trained staff shall maintain a close watch on the trading area and behaviour of customers at all times and shall either a) take appropriate action where needed or b) report concerns to their manager (where they are not authorised to deal personally with an issue).

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. Regulated entertainment shall be restricted to the inside of the premises.
3. No recorded music shall be played at the premises at any time.

Protection of Children

1. The premises shall adopt and implement the Hampshire Constabulary's Challenge 21 Scheme.
2. No unaccompanied children shall be permitted to be on the premises.
3. No children shall be permitted to be on the premises after 2100 hours.

The meeting commenced at 2.00pm concluded at 3.30pm.

Chairman