

## **LICENSING SUB – COMMITTEE**

26 September 2005

Report of City Secretary and Solicitor

Contact Officer: John Myall. Tel No: 01962 848443

Application to Vary the Premises Licence for:

**The White Swan  
84 Hyde Street  
Winchester**

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**Part A.****1. Application****Applicant:** Greene King Brewing and Retailing Limited**Premises:** The White Swan**Conversion of the Existing Licence/s.**

The conversion of the existing licence(s) was granted under delegated powers on 14 September 2005.

The current permitted hours are;

<b>Monday to Saturday</b>	<b>1000 to 2300</b>
<b>Sunday and Good Friday</b>	<b>1200 to 2230</b>
<b>Christmas Day</b>	<b>1200 to 1500</b> <b>1900 to 2230</b>
<b>New Year's Eve</b>	<b>1000 to 2300 1 January</b>

The premises have the benefit of a Public Entertainment Licence, the hours being Mondays to Saturdays from 1800 to 2300.

**Application for Variation.**

The application is for variation of the Premises Licence during the Transitional Period under Schedule 8 paragraph 7(b) of the Licensing Act 2003, to extend the hours when the premises are open to the public, for the sale of alcohol, late night refreshment and regulated entertainment.

**Removal of Embedded Restrictions**

The application is also to remove all embedded restrictions inherent in S168 of the Licensing Act 1964,

Notice of the application was displayed outside of the premises for a period of 28 days until 29 August 2005, and advertised in the Hampshire Chronicle on 12 August 2005.

The Operating Schedule, copied at Appendix 1, proposes the Relevant Licensable Activities as:

**1 Regulated Entertainment (E,F,H,J)**

Live and recorded music, anything of a similar description and facilities for dancing

***Every day*** ***1800 to 2300***

***In addition 1 extra hour before and 1 extra hour after Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August bank***

*holidays, Good Friday, Easter Saturday, Easter Sunday and Easter Monday, St. George's day and St. Patrick's Day, plus any other publicly declared holiday.*

2 **Late Night Refreshment (L)**

*Thursday, Friday and Saturday 2300 to 0000*

*Extra hours as above in (1)*

3 **Supply of Alcohol (M)**

*Monday to Wednesday 1100 to 2300*

*Thursday to Saturday 1100 to 0000*

*Sunday 1100 to 2300*

*Extra hours as above in (1)*

4. **Hours Premises Open To The Public (O)**

*Sunday to Wednesday 1100 to 2330*

*Thursday to Saturday 1100 to 0030*

*Extra hours as above in (1)*

*(The above letters in brackets refer to the relevant sections of the application form)*

**Designated Premises Supervisor**

***Lucinda Marsh***

**Steps to promote the Licensing Objectives**

Please see Section Q Appendix 1

**Removal of Embedded Restrictions**

The application is also to remove embedded restrictions inherent in the Licensing Act 1964 S168.

In respect of these premises, this relate to the following matter:-

- (a) Section 168 Licensing Act 1964 - Children prohibited from bars (Note that Section 145 Licensing Act 2003 restricts unaccompanied children in premises supplying alcohol).

**Notice of Hearing**

Notices of the hearing were sent to all Parties on 12 September 2005.

**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**

No representations received

**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**

1. Mr. Dennis Brady
2. Miss E. Lane
3. Mrs. M. Smith
4. Peverel Management Services (Mr. Stephen J. Dick)
5. Eileen M. Baker
6. Mrs. P. Rentall
7. Mrs. Betty Gillies
8. Mrs. J. M. Skinner
9. Mrs. A. Walker
10. Mr. S. Normington
11. Mr. and Mrs. J. Bew
12. Mrs. M. G. Pressly
13. Mrs. Lyn Cook
14. David B. Jones

#### **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 observations the interested parties, 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 observations 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 noise pollution from the premises having regard to the observations of the Interested Parties, 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

Under the Licensing Act 2003, the following conditions must be imposed on the Premises Licence in any event:-

1. No supply of alcohol may be made under the Premises Licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.

### 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 Wednesday 1100 to 2330**
  - (ii) **Thursday to Saturday 1100 to 0030**
  - (iii) **One extra hour before and one extra hour after Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Easter Sunday and Easter Monday, St. George's Day, St. Patrick's Day and any other publicly declared holiday.**
2. The hours the premises may be used for the sale of alcohol shall be:
  - (i) **Monday to Wednesday 1100 to 2300**
  - (ii) **Thursday to Saturday 1100 to 0000**
  - (iii) **Extra seasonal timings as above in 1 (iii)**
3. The hours the premises may be used for regulated entertainment shall be:
  - (i) **Every Day 1800 to 2300**



(ii) ***One extra hour before and one extra hour after Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Easter Sunday and Easter Monday, St. George's Day, St. Patrick's Day and any other publicly declared holiday.***

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

(i) ***Thursday to Saturday 2300 to 0000***

(ii) ***One extra hour before and one extra hour after Christmas Eve, Christmas Day, Boxing Day, New Years Day, Spring and August Bank Holidays, Good Friday, Easter Saturday, Easter Sunday and Easter Monday, St. George's Day, St. Patrick's Day and any other publicly declared holiday.***

### **All Licensing Objectives**

[Dealt with in relevant sections below].

#### **Crime and Disorder**

1. A written policy for sensible consumption of alcohol shall be adopted and all staff shall be trained in the implementation of the policy before the premises are used for the purposes of this Licence.
2. The premises shall be a member of a local Pubwatch scheme if available
3. Adequate and sufficient training for staff and managers on dealing with illegal activities and aggressive customers shall be provided, together with training in communication with customers when service is refused for drunkenness.

#### **Public Safety**

1. 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. Regulated entertainment shall be restricted to the inside of the premises.
4. All doors and windows that are capable of being opened directly to the outside of the premises shall not be kept open whilst the premises are in use for the purposes of regulated entertainment.

5. No customers shall be allowed to drink in the outside section of the premises after 2300.
6. External background music shall be turned off at 2100.

### **Protection of Children**

1. The premises shall adopt and implement the Hampshire Constabulary's Challenge 21 Scheme.

### ***Embedded Restrictions***

1. The provisions of the Licensing Act 1964, The Cinematograph (Safety) Regulations 1955, the Local Government (Miscellaneous Provisions) Act 1982 and the Children and Young Persons Act 1933 shall apply with the exception of S168 of the Licensing Act 1964

### **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 Green King Brewing and Retailing Limited.
2. Representations by Interested Parties
3. Map of premises location.