

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing (2003) Act Sub Committee 3rd March 2005
AUTHOR: Chief Environmental Health Officer

APPLICATION TO VARY EXISTING CONDITIONS: WHITE SWAN OAKINGTON

Purpose

1. To inform the Sub-committee of an objection made following an application for a variation of an existing liquor license at the White Swan, 24 High Street, Oakington, Cambridgeshire.

Background

2. On the 11th February 2005 Mr James Briggs of The White Swan Public House, 24 High Street, Oakington applied for a transfer of his existing Justices licence and a simultaneous variation of his current licence conditions to allow the premises to open until 12 Midnight on Fridays, Saturdays and Bank Holiday Sundays. In addition, Mr Briggs would also like the existing justices condition restricting children to be permitted only when having a meal, to be lifted. This change would effectively allow children to be permitted at all times provided they are accompanied by an adult. (The application form and plan are attached at **Appendix A** and the Operating Schedule Tool Kit at **Appendix B**).
3. Consultations were carried out with all the relevant responsible authorities and no representations were made regarding the application.
4. The White Swan is situated in the centre of the village and opens onto the street. There is a parking area to the side of the premises and a beer garden in the rear of approximately 1/4 of an acre. These grounds are enclosed by a brick wall and pine trees. The premises have neighbours on all sides. The Public House is currently open under the existing Magistrates Licence from 11.00am until 11:00pm for the sale of alcohol and also benefits from a standard 20 minute drinking up time thereby creating a closing time of 11.20pm.
5. There have been no previous complaints registered with the Environmental Health department in relation to noise, smells etc., or by the Police and Fire service during the time that Mr Briggs has held his current licence. The Fire service has confirmed that all current fire safety certificates are being complied with.
6. The White Swan holds a Children's Certificate attached to the current liquor licence, which has been in place since October 2000. The conditions state that children can only be present in the premises whilst accompanying adults that are taking a table meal.
7. Mr Briggs has been granted a Personal Licence under the new legislation since the application was received his licence No is SC 0023.
8. Following the application a representation has been received at this office by Mrs J Applegate (**Appendix C**) Mrs Applegate is making representations as an interested party that relate to the Licensing objectives of prevention of Public Nuisance and

Public Safety because by opening later it will cause more disruption later at night to neighbours in the vicinity.

Legal Implications

9. Mr Briggs or an objector will maintain a right of appeal to a Magistrates Court after determination of this committee.

Officer Views

10. Members have the right under the Licensing Act 2003 to determine this application after considering any representations. Members may approve the application, reject the application or impose conditions that promote the relevant Licensing objectives. The representation made is based upon the Public Nuisance and Public Safety objectives and therefore any decisions imposed must relate to these objectives only. The Councils Policy gives the following examples of conditions that could be used to curb Public Nuisance or Public safety:-

Conditions relating to the prevention of public nuisance.

a) Consideration may be given to conditions that ensure that:

- 1) **Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties**
- 2) **Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.**
- 3) **The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in the surrounding areas are restricted.**
- 4) **The placing of refuse - such as bottles- into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.**
- 5) **Noxious smells from the licensed premises are not permitted (subject to existing legislation not providing adequate measures) so as to cause a nuisance to nearby properties and the premises are properly vented.**
- 6) **Flashing or particularly bright lights on or outside licensed premises (any such condition must be balanced against the benefits of providing lighting to promote the prevention of crime and disorder).**

b) Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or club premises certificate for the prevention of public nuisance:

- 1) **Conditions may be placed on premises restricting (other than where they are protected by the transitional provisions of the Act) the hours during which premises are permitted to be open to the public or to members and their guests.**
- 2) **Restrictions may be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times**
- 3) **Restrictions may be necessary on parts of a premise used for certain licensable activities at certain times.**

4. Conditions Relating to Public Safety (including fire safety)

Conditions relating to public safety will be those that are necessary to promote the objective of public safety for individual premises or clubs. They should not duplicate other legal requirements. Equally the attachment of conditions to a premises licence or club premises certificate will not relieve employers of the statutory duty to comply with the requirements of Health and Safety legislation and the requirements under the management of Health and Safety at Work regulations 1999 and the Fire Precautions (Workplace) regulations 1997 to undertake risk assessments.

Conditions enforcing these arrangements will therefore be unnecessary.

Where existing legislation does not provide adequately for the safety of the public consideration may be given to conditions covering:

11. Members should be aware that at page 5 of the Councils Licensing Policy it stresses that every application will be dealt with impartially and on its individual merits. It also points out in the same paragraph that it is aware of its new powers under the Anti Social Behaviour Act (s40,41 noise causing a public nuisance) and is also aware that the use of conditions and the application of Licensing Law should not be used as a tool in the control of anti-social behaviour either by groups or individuals once these groups or individuals are beyond the direct control of a person or organisation responsible for licensed premises.

Background Papers None

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