

LICENSING ACT 2003

APPLICATION: SWAN INN, HIGH STREET, TOTTON

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Wednesday, 28 September 2005 at 5.00 pm.**

1. Members of the Licensing Sub-Committee

Councillor J M Hoy
Councillor Mrs B Smith - Chairman
Councillor A R Tinsley

2. Parties and their Representatives attending the Hearing

Mr. I Middleton - objector

3. Other Persons attending the Hearing

None.

4. Parties not attending the Hearing

Punch Taverns plc – Applicant
TLT Solicitors – Solicitors for the Applicant.

5. Officers attending to assist the Sub-Committee

Ms J Mutlow – Legal Advisor
Mrs R Rutins - Clerk

6. Decision to proceed with the Hearing

The Sub-Committee noted that neither the applicant nor their solicitors were present, and no reason for their non-attendance had been advanced. The Sub-Committee considered that it was not in the public interest to postpone the hearing. They would rely on the written application as the applicant's case.

7. Decision of the Sub-Committee

The application is granted on the following terms and conditions:

Licensable activities and times permitted:

E. Live music:

Monday 11.00 to 23.00
Tuesday 11.00 to 23.00
Wednesday 11.00 to 23.00
Thursday 11.00 to 23.00
Friday 11.00 to 00.00
Saturday 11.00 to 00.00
Sunday 12.00 to 22.30

F. Recorded music:

Monday 11.00 to 23.00
Tuesday 11.00 to 23.00
Wednesday 11.00 to 23.00
Thursday 11.00 to 23.00
Friday 11.00 to 00.00
Saturday 11.00 to 00.00
Sunday 12.00 to 22.30

J. Provision of facilities for entertainment of a similar description to that falling within I. and J. (Karaoke):

Monday 11.00 to 23.00
Tuesday 11.00 to 23.00
Wednesday 11.00 to 23.00
Thursday 11.00 to 23.00
Friday 11.00 to 00.00
Saturday 11.00 to 00.00
Sunday 12.00 to 22.30

M. Supply of alcohol:

Monday 11.00 to 23.00
Tuesday 11.00 to 23.00
Wednesday 11.00 to 23.00
Thursday 11.00 to 23.00
Friday 11.00 to 00.00
Saturday 11.00 to 00.00
Sunday 12.00 to 22.30

Non-standard timings

The licensable activities above will be permitted for a further additional hour on the following days:

- Each Friday, Saturday and Sunday of the May, Spring/Whitsun and August Bank Holiday weekends.
- Each Thursday, Friday, Saturday and Sunday of the Easter Bank Holiday weekend.
- Christmas Eve.

The permitted hours for New Years Eve/ New Years Day will remain unchanged.

O. Hours premises to be open to the public

Monday 11.00 to 23.30
Tuesday 11.00 to 23.30
Wednesday 11.00 to 23.30
Thursday 11.00 to 23.30
Friday 11.00 to 00.30
Saturday 11.00 to 00.30
Sunday 12.00 to 23.00

The premises will be permitted to be open to the public for a further additional hour on the following days in line with the non-standard timings detailed above:

- Each Friday, Saturday and Sunday of the May, Spring/Whitsun and August Bank Holiday weekends.
- Each Thursday, Friday, Saturday and Sunday of the Easter Bank Holiday weekend.
- Christmas Eve.

The permitted hours for New Years Eve/ New Years Day will remain unchanged.

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. Unaccompanied children are not permitted on the premises at any time, and in any event no children are permitted on the premises after 21.00 hours.
2. The licensee or his/her nominated representative shall receive and respond to complaints throughout the duration of the regulated entertainment.
3. All external doors and windows shall be kept closed, other than for access and egress, when events involving live and/or amplified music (including speech) are taking place.
4. After 23.00 hours music and noise emanating from the premises shall be inaudible at the boundary of all noise sensitive premises*.
5. Prior to 23.00 hours, music and noise emanating from the premises, if audible, shall be at such a level that distinct tunes, lyrics, musical instruments and any base beat cannot be recognised at the boundary of all noise sensitive premises*.

* For the purposes of conditions 4 and 5 above, noise sensitive premises shall include premises used for residential purposes, hospitals or similar institutions, educational establishments (when in use), places of worship (during recognised times and days of worship) and any other premises used for any other purpose likely to be affected by the music noise.

8. REASONS FOR THE DECISION

The Sub-Committee carefully considered the evidence, both written and oral, supplied by the parties.

In respect of the finish time for the licensable activities the Sub-Committee had particular regard to representations concerning noise nuisance and anti-social behaviour. They accepted that at present there are occasions where noise and some anti-social behaviour occur, in particular at 'turn out' time. However, they noted that no objections to the application for increased opening hours had been made by the Environmental Health Department or the Police.

The Sub-Committee considered that permitting a slightly longer period for licensable activities would enable customers to emerge from the premises at a more gradual rate. It further considered that this would reduce the concentrated effect of noise likely to arise when numbers of people leave the premises at the same time and this would promote the licensing objective relating to the prevention of public nuisance.

The Sub-Committee also took the view that the conditions imposed on the licence would have the effect of ameliorating the concerns raised. Should noise nuisance occur as a result of the extended hours, or in fact at all, then interested parties could ask the Licensing Authority to consider reviewing the licence or the Council's environmental health officers to consider taking action under other statutory regimes such as the Environmental Protection Act.

Finally the Sub-Committee took the view that the problems of nuisance being experienced by the objectors could not be shown to arise directly from patrons of this particular premises.

Date: 28.09.05

Licensing Sub-Committee Chairman: Cllr Brenda Smith

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Decision notified to interested parties on 29 September 2005