

CENTRAL BEDFORDSHIRE COUNCIL

Record of Licensing Sub-Committee hearing convened under The Licensing Act 2003 (Hearings) Regulations 2005 on Wednesday, 4 August 2010

Licensing Sub-Committee Composition

Cllrs L Birt (Chairman) K Janes
A A J Rogers

Members' Interests

(a) **Personal Interests:-**

None.

(b) **Personal and Prejudicial Interests:-**

None.

Name of Applicant

Mrs Linda Hallam
1 Wellington Terrace
Dunstable
Beds
LU5 4JB

Names of Parties present (including the Applicant, Observers and Persons who have made relevant Representations together with any person representing each Party)

Mrs L Hallam	- Applicant
Cllr L Birt	- Central Bedfordshire Councillor
Ms Daly	- White Swan Manager
Mrs P Davies	- Licensing & Policy Officer
Mr D Duggan	- Premises Licence Holder, White Swan
Mrs J Hastings	- Witness for the Applicant
Cllr Mrs C Hegley	- Central Bedfordshire Councillor (In attendance)
Ms J Hillier	- Licensing Administrator & Enforcement Officer
Mr D Hobbs	- Witness for the Premises Licence Holder
Mrs S Hobbs	- Democratic Services Officer
Cllr K Janes	- Central Bedfordshire Councillor
Mr R Jones	- Environmental Health Officer
Cllr H Lockey	- Central Bedfordshire Councillor (In attendance)
Ms M Ludford	- Witness for the Premises Licence Holder
Mr D McBain	- Licensing Enforcement Officer
Mr R O'Brien	- Witness for the Premises Licence Holder
Mr Rowbotham	- Witness for the Premises Licence Holder
Cllr AAJ Rogers	- Central Bedfordshire Councillor
Mr M Woolsey	- Acting Managing Solicitor – Litigation

Names of Parties submitting written representations and indications of their representations

Mrs L Hallam – objection to the continual loud music and excessive noise (screaming and shouting) from the patrons of the White Swan lasting into the early hours of the morning.

Mrs Hastings – objection to the noise levels never being controlled with loud music being played inside and outside of the White Swan especially over the weekends where the noise goes into the early hours of the morning.

Mr Dawson – objection to the noise levels from the garden at the White Swan from live music events and the television coverage of the Football World Cup.

Procedures for Hearings of Applications for Authorisations under the Licensing Act 2005 by the Licensing Sub-Committee

Noted the procedures for hearing the applications for Authorisations under the Licensing Act 2005 by the Licensing Sub-Committee.

Amendment of Application (if any) requested by Applicant

The applicant requested that the application be amended to the following:

- an automatic door closer to be fitted to all back doors;
- the pub garden be closed and cleared of all customers by 23:00 hours;
- no outside music or use of outside television screens; and
- that the staff of the premises control the level of screaming, chanting and shouting that was allowed in the outside area's and that they are made aware that the pub is situated in a built up residential area.

The Application

The application was for the variation of a premises licence to cover the following:

- improvements to the back doors of the White Swan;
- to close and clear the garden of the White Swan by 23:00 hours;
- that no music/television to be played in the garden of the White Swan; and

- that noise levels are controlled in the outside area.

A copy of the application form was attached to the report at Appendix A.

The Four Licensing Objectives

The Chairman drew attention to the four licensing objectives which were set out in the report circulated with the Agenda.

Licensing Act 2003 - Determination of Application for Review of a Premises Licence at The White Swan, 91-93 High Street South, Dunstable

The Sub-Committee received and considered a report of the Head of Service Public Protection which explained that an application had been submitted by an interested party for a review of the premises licence at The White Swan, 91-93 High Street South, Dunstable. The Applicant, the Premises License Holder, the Premises Site Manager and witnesses attended the meeting and made representations.

The Chairman outlined the procedure to be followed.

The Chairman invited the Licensing Enforcement Officer to present the report to the Sub-Committee. The Sub-Committee were advised that the applicant had submitted an application for the review of a premises licence under the Licensing Act 2003. The applicant had recommended that improvements be made to the back doors of the public house, the garden be closed and cleared by 23:00 hours, no music/television screens be used in the garden and that staff control the level of noise in the outside areas.

The Chairman invited the applicant to present their case to the Sub-Committee. Mrs Hallam and Mrs Hastings presented their case to support the above recommendations to reduce the noise levels coming from the White Swan. The applicant and her witness commented on the noise nuisance that they had endured over recent years. The applicant circulated a copy of an Environmental Health - Complaint Record Form that she had completed setting out the date, times, description of the complaint and how this had affected her.

The Sub-Committee noted that there had been four instances of noise complaints since the licence was granted in September 2005:-

- one complaint in June 2006;
- one complaint in July 2007, but this was attributed to a nearby Temporary Event Notice function and not to The White Swan;
- one complaint in March 2009, Officers did not observe a nuisance; and
- one complaint in February 2010, which led to this application for review.

The Chairman invited the rest of the Sub-Committee to question the Applicant.

The Chairman invited the Environmental Health Officer (EHO) who had responded to an out of hours call from Mrs Hallam to put forward the details of his visit to the applicant's property at 02:00hrs on 18 July 2010. The EHO recommended that the licence conditions be amended as follows:

- that no music to be heard from nearby residential properties after 23.30 hrs at the weekend and earlier in the week; and
- that the premises close at midnight, or persons not allowed in the garden after midnight.

The Chairman then invited the Premise Licence Holder to present his case. The Premise Licence Holder gave a brief history and description of the White Swan including the relationship with his patrons and employees. He commented on the agreement that had been put in place in 2006 with local residents to prevent noise nuisance. In presenting the case the Premise Licence Holder called upon four witnesses who gave evidence to support the premises licence at the White Swan. A copy of a letter from the Britain Street, Swan Gardens, Wellington Terrace and High Street South Residents Association was read out and circulated at the meeting. The Premises Licence Holder provided the Sub-Committee with a folder containing a copy of the White Swan's policies, notices, publications and photos of the layout of the pub.

The Sub-Committee asked a number of questions to the Premises Licence Holder, the witnesses and the Environmental Health Officer.

The Applicant asked a number of questions which the Premises Licence Holder answered.

The Chairman invited the Applicant and the Objector to sum up their cases.

The Sub-Committee adjourned with its Solicitor to deliberate upon the application.

DECISION

That having taken into account the Licensing Act 2003 Guidance issued under Section 182 of the Act, Central Bedfordshire Council's Licensing Policy and representations from the Applicant and parties, granted the following variations to the licence:

1. The current condition on the premises licence of the White Swan Public House, which relates to Regulated Entertainment, is varied so that outdoor music/dancing is to cease at 21:30hrs.

The condition now reads:

*“Films & sporting events (indoors), live music, recorded music and performance of dance (indoors and outdoors), anything similar (indoors), facilities for making music and dancing (indoors and outdoors)
Sun to Thur 10:00hrs to 01:00hrs
Fri & Sat 10:00hrs to 03:00hrs
Outdoor music/dancing to cease at 21:30hrs”*

2. All other original conditions shall remain the same;
3. The following conditions shall be added to the licence:
 - a. The activities of the White Swan Public House shall comply with the agreement made on the 22 July 2006 between Mr Duggan and Local Residents.
 - b. Automatic door closers shall be added to the two rear external glazed doors, and the doors shall be kept shut at all times.
 - c. Improved double glazing shall be carried out to the two rear external glazed doors.

The Sub-Committee considered the additional conditions necessary for the promotion of the licensing objectives, especially the Prevention of Public Nuisance.

All Licences are granted subject to the mandatory conditions imposed by the Licensing Act, 2003.

Reason for decision was to prevent any further public nuisance taking place.

(Note: The meeting commenced at 2.00 p.m. and concluded at 4.05 p.m.)